

# FREDERICK COUNTY SHERIFF'S OFFICE

**HEADQUARTERS  
FREDERICK COUNTY LAW  
ENFORCEMENT CENTER**

110 Airport Drive East  
Frederick, Md. 21701  
301-600-1046  
301-600-1527 (Fax)  
301-600-7655 (TTY)

**JUDICIAL OPERATIONS**

100 W. Patrick Street  
Frederick, Md. 21701  
301-600-2162  
301-600-3690 (Fax)



**CHARLES A. JENKINS**  
SHERIFF

**DETENTION CENTER/  
CENTRAL BOOKING**

7300 Marcie's Choice Lane  
Frederick, Md. 21704  
301-600-2550 (D.C.)  
301-600-2566 (D.C. Fax)  
301-600-1790 (C.B.)  
301-600-1791 (C.B. Fax)

**WORK RELEASE CENTER**

7281 Marcie's Choice Lane  
Frederick, Md. 21704  
301-600-1727  
301-600-3404 (Fax)

August 31, 2018

Mr. Paul B. DeWolfe  
Public Defender  
Office of the Public Defender  
Administration  
William Donald Schaefer Tower  
6 Saint Paul Street, Suite 1400  
Baltimore, Maryland 21202

Dear Mr. DeWolfe:

This letter is in direct response to your correspondence of August 27, 2018, regarding the conditions of confinement for OPD's juvenile clients currently being held at the Frederick County Adult Detention Center. Your letter cites concerns that are not factual, and your assertion that conditions are egregious and that practices at the FCADC subject juveniles to harm are very simply baseless and untrue. It is true that the FCADC is an adult detention facility, and although the incarceration setting for juveniles is not ideal, accommodations are made to the best of our ability to ensure they are afforded all of their rights and privileges, and are secured and protected as required by the U.S. Constitution in accordance with federal and state law. In your letter you state the following:

"The Maryland Office of the Public Defender ("OPD") writes to express concerns regarding the conditions of confinement for OPD's juvenile clients held prior to transfer hearings at the Frederick County Detention Center ("FCDC"). As detailed more fully below, FCDC's

- (1) failure to provide sight and sound separation of juveniles from adults,
- (2) use of isolation, and
- (3) lack of a free and appropriate public education subject detained juveniles to egregious conditions which deprive them of rights and privileges secured and protected by the U.S. Constitution and federal law."

I will address each of your initial concerns below:

- (1) “Juveniles awaiting transfer hearings are kept in their cells for twenty-three hours of the day. As a result, they are effectively isolated for extended periods of time without programming.”

*All adult inmates are kept in our Holding Unit for 24 hours. After that time they are moved to an intake block so that they can be medically cleared within 72 hours after receiving a TB test. During that 72 hours, adult inmates are then classified and sent to general population housing. In order to comply with the Prison Rape Elimination Act (PREA) standards, juveniles are held in our holding unit for up to 72 hours until medically cleared and then classification houses them in a designated cell block. Based on the number of juveniles housed at any given time, one may be housed alone if no other juveniles are present in the facility. All juveniles are allowed to attend programs and recreation with supervision by staff. They have access to phone and TV, are checked on daily by medical staff and classification staff, and routine checks by uniformed staff throughout the day.*

- (2) “Use of isolation”,

*The Frederick County Adult Detention Center does not use isolation as a general rule. There may be a situation, that due to a serious disciplinary infraction, a juvenile could be held on disciplinary status and moved away from other juveniles. This would include fights, assaults, or other major infractions within the facility.*

- (3) “Lack of a free and appropriate public education subject detained juveniles to egregious conditions which deprive them of rights and privileges secured and protected by the U.S. Constitution and federal law.”

*The Frederick County Adult Detention Center currently utilizes Frederick Community College (FCC) instructors to teach G.E.D. free of charge to the inmate population. According to the grant held by FCC they can only teach adult inmates over the age of 18. The Frederick County Adult Detention Center has been in conversations with FCC over the past four months to modify the existing Memorandum of Understanding to cover the educational needs of the juvenile inmates.*

*With regards to education of the juvenile inmates, Frederick County Public Schools (FCPS) sends a tutor to the facility once a week, for 30 minutes to an hour, to assist one juvenile due to a current IEP (Individual Education Plan) on file with FCPS. The staff at the detention center has also reached out to FCPS about additional education for all other juveniles.*

I will also address other statements made in your letter to clarify our position:

- A. Juveniles do not receive daily large-muscle exercise and do not have sound separation from adult detainees.

*All inmates, to include juveniles, are afforded the opportunity for recreation daily for one hour in the gym or outside recreation area. Juvenile recreation is conducted separately from adult inmates thus fulfilling the sight and sound requirement as mandated by law.*

- B. "One youth was admitted to the adult detention center on April 9, 2018, and taking the following medications: Clonidine, Prozac, Prazosin, Trazodone and Melatonin. As of the writing of this letter, he has not received his medications."

*The juvenile referenced was waiting for permission to treat medically from the parents via a Parental Consent for Medical Care of Inmates under 18 Years of Age Form. The parents were notified by mail, e-mail, and telephone calls numerous times. The facility did not get a Parental Consent for Medical Care of Inmates under 18 Years of Age Form from the parents until August 20, 2018. Once received, the juvenile began his medications.*

- C. "Beyond the potential liability under PREA, Maryland law further discourages detaining youth in adult facilities. Maryland Rule 4-223 provides that juveniles shall be held in a secure juvenile facility unless a court finds that detention in a juvenile facility would be a risk of harm to other juveniles and states the reasons for the finding on the record. Reliance on juvenile facilities for youth whenever possible, regardless of the charges alleged, is consistent with health and safety considerations."

*While I agree with your statement that juveniles should be held in juvenile facilities, this is a decision made by the courts. All juveniles held within the Frederick County Adult Detention Center are charged as adults and committed to our facility by court order.*

- D. DJS detention (hardware secure) facilities provide similar security measures as an adult jail - relying on the use of construction and hardware such as locks, bars and fences to restrict movement - but with the capability to address the unique developmental concerns of young detainees. Most notably, the lower staff-to-inmate ratio allows for greater supervision that both protects vulnerable youth from abuse and provides sufficient monitoring of the entire housing area. Juvenile detention facilities generally have a ratio of one staff member to every eight youths, while an average adult jail has a staff-to-inmate ratio of one to sixty-four.

*The Frederick County Adult Detention Center currently has a staff to inmate ratio of one to fifteen. This figure is taking the average daily population divided by the average number of officers on a shift. This does not take into consideration for any other staff that are currently working such as counselors, medical staff, administrative staff, etc.*

- E. Lack of a free and appropriate public education subject detained juveniles to egregious conditions which deprive them of rights and privileges secured and protected by the U.S. Constitution and federal law.
1. They do not attend school.

2. Youth held since April 9, 2018 have not attended school, nor received instruction.

*The Frederick County Adult Detention Center currently utilizes Frederick Community College (FCC) instructors to teach G.E.D. free of charge to the inmate population. According to the grant held by FCC they can only teach adult inmates over the age of 18. The Frederick County Adult Detention Center has been in conversations with FCC over the past four months to modify the existing Memorandum of Understanding to cover the educational needs of the juvenile inmates.*

*With regards to education of the juvenile inmates, Frederick County Public Schools (FCPS) sends a tutor to the facility once a week, for 30 minutes to an hour, to assist one juvenile due to a current IEP (Individual Education Plan) on file with FCPS. The staff at the detention center has also reached out to FCPS about additional education for all other juveniles.*

- F. FCDC is not generally equipped to handle the special developmental needs of juveniles, including those related to their physical, emotional, and educational well-being. While FCDC provides no education, youth in DJS detention facilities receive schooling five days a week for six hours a day year round through the Maryland State Department of Education's (MSDE) Juvenile Services Education (JSE) program, which is consistent with the requirements of COMAR Title 13A.

*While it is true that the educational opportunities for the juveniles in an adult correctional facility are not as extensive as those provided by DJS, it should be noted that the Maryland State Department of Education's (MSDE) Juvenile Services Education (JSE) program which is consistent with the requirements of COMAR Title 13A only applies to the Department of Juvenile Services and not an adult correctional facility.*

*The Frederick County Adult Detention Center does have staff that are trained in the special needs of the Youthful Offenders. As a matter of note, all correctional staff receive training in the special needs and requirements of youthful offenders and PREA in our entry level correctional academy as well as annually during in-service training.*

- G. While residing at a DJS secure detention facility, all youth also have access to medical, behavioral, counseling, dietary and educational services and engage in recreational activities as constitutionally required.

*All inmates (to include juveniles) at the Frederick County Adult Detention Center have access to medical, behavioral counseling, dietary (to include medical or religious diets), educational opportunities, and daily recreation as prescribed by law. It should be noted that all juveniles are checked daily by medical staff, classification specialists, shift supervisors, and routinely throughout the day by officers.*

- H. The safety and well-being of our young clients demands that they be housed in conditions that are developmentally appropriate and responsive to their heightened vulnerability

relative to adults. To ensure compliance with constitutional and federal law, FCDC must ensure that youth are in juvenile facilities or that their adult facilities provide similar protective measures and mandated services.

*While I agree with your statement that juveniles should be held in juvenile facilities, this is a decision made by the courts. All juveniles held within the Frederick County Adult Detention Center are charged as adults and committed to our facility by court order. The Frederick County Sheriff's Office must follow the orders of the courts.*

*It should also be noted that the Governor's Office of Crime Control and Prevention (GOCCP) audits the facility every two years to ensure we are in compliance with the Juvenile Justice Delinquency and Prevention Act and a yearly survey is completed and submitted to the GOCCP along with a list of all juveniles housed in our facility.*

*The Frederick County Adult Detention Center is also audited every three years by the Maryland Commission on Correctional Standards and for the past three audits (nine years) we have received a 100% compliance rating by the commission.*

- I. By this letter, OPD hereby provides FCDC with notice that its current practices subject juvenile detainees to harm in violation of the Prison Rape Elimination Act and the Eighth Amendment prohibition against cruel and unusual punishment.

*I strongly disagree with your assertions that the Frederick County Adult Detention Center subjects juvenile to harm thus violating the Prison Rape Elimination Act and the Eighth Amendment. The Frederick County Adult Detention Center policies and procedures follow the Prison Rape Elimination Act, Prison and Jail Standards, dated May 17, 2012. The standards state:*

**§ 115.14 Youthful inmates.**

- (a) A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters.

*All juvenile inmates are housed separately away from adults. They do not share a shared dayroom, common area, shower area, or sleeping quarters with adults.*

- (b) In areas outside of housing units, agencies shall either:
  - (1) maintain sight and sound separation between youthful inmates and adult inmates,  
or
  - (2) provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact.

*All juveniles are under constant supervision when outside of their housing units. They attend recreation and visitation separate from adults, and when attending programs with adults they are provided direct supervision from staff.*

- (c) Agencies shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

*As stated earlier, the Frederick County Adult Detention Center does not use isolation as a general practice. There are times due to a disciplinary infraction that a juvenile could be held on disciplinary status and moved away from other juveniles. Based on the number of juveniles we may have at one time, some might be housed alone due to no other juveniles present in the facility to be housed with. All juveniles are allowed to attend programs and recreation daily with supervision by staff. They have access to phone and TV, are checked daily by medical staff, classification specialists, shift supervisors, and routinely throughout the day by officers. We even have juvenile inmates that work in a secured location at night away from adult inmates.*

Currently the FCADC has 6 juveniles housed at our facility. Three are housed in a cell block, one is housed on disciplinary status for destruction of property, and two are housed together away from another juvenile in compliance with a court order.

As the Sheriff of Frederick County, Maryland, being responsible for the operations of the adult detention center I would certainly support the efforts of the Office of the Public Defender to ensure that juvenile offenders are remanded to custody of the Department of Juvenile Services where conditions may be more appropriate for juvenile incarceration. However, I can assure you that when we are required to house juvenile offenders the conditions will be appropriate and suitable as required by law. I would also encourage and support any and all cooperation from Frederick County Public Schools with regard to educating juveniles in our facility.

I am greatly concerned of the fact that your letter was dated August 27, 2018, appeared in the Frederick News Post early on August 28, 2018, however, several of the addressees verified that the post mark on the envelope was August 29, 2018 and was received on August 30, 2018. This is totally unprofessional and inappropriate.

If you have any further questions or concerns I would appreciate as a professional courtesy that any and all contact or correspondence be made directly to myself at 301-600-1532 or in writing to my office.

Regards,

A handwritten signature in black ink, appearing to read "Charles A. Jenkins", with a long horizontal flourish extending to the right.

Sheriff Charles A. Jenkins  
Sheriff of Frederick County

cc: Mr. Ray Barnes  
Chief Administrative Officer  
Frederick County  
Winchester Hall  
12 E. Church Street  
Frederick, Maryland 21701

The Honorable Julie R. Stevenson Solt  
County Administrative Judge  
Frederick county Circuit Court  
100 West Patrick Street  
Frederick, Maryland 21701

Dr. Theresa Alban  
Superintendent  
Frederick County Public Schools  
191 South East Street  
Frederick, Maryland 21701